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**TERRY RICHARD
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191**

MAILED

OCT 30 2009

OFFICE OF PETITIONS

In re Application of :
Richard N. Terry :
Application No. 09/461,846 : DECISION DISMISSING
Filed: December 15, 1999 : PETITION UNDER
Attorney Docket No. 02706-0520 : 37 CFR 1.313(c) (2)

This is a decision on the petition under 37 CFR 1.313(c) (2), filed March 17, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

The Office sincerely apologizes for the delay in replying to the above matter.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until October 30, 2009.. The above-identified application issued as U.S. Patent No. 6,716,895 on April 6, 2004.

Petitioner is reminded, to hand carry or fax petitions to withdraw from issue **directly** to the Office of Petitions. See MPEP § 1308.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent.

No fees charged for the petition and RCE submitted on March 17, 2004.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions